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| UNITED STATES OF AMERICA |) |
| |) |
| v. |) CHARGES: |
| |) CONSPIRACY; AIDING |
| |) THE ENEMY; |
| |) ATTACKING CIVILIANS |
| |) |
| ABDUL ZAHIR |) |
| |) |
| a/k/a Abdul Bari |) |
| |) |

JURISDICTION

1. Jurisdiction for this Military Commission is based on the President's determination of July 6, 2004 that Abdul Zahir (a/k/a Abdul Bari, hereinafter "Abdul Zahir") is subject to his Military Order of November 13, 2001.
2. Abdul Zahir's charged conduct is triable by a military commission.

GENERAL ALLEGATIONS

3. Al Qaida ("the Base"), was founded by Usama bin Laden and others in or about 1989 for the purpose of opposing certain governments and officials with force and violence.
4. Usama bin Laden is recognized as the *emir* (prince or leader) of al Qaida.
5. A purpose or goal of al Qaida, as stated by Usama bin Laden and other al Qaida leaders, is to support violent attacks against property and nationals (both military and civilian) of the United States and other countries for the purpose of, *inter alia*, forcing the United States to withdraw its forces from the Arabian Peninsula and in retaliation for U.S. support of Israel.
6. Al Qaida operations and activities are directed by a *shura* (consultation) council composed of committees, including: political committee; military committee; security committee; finance committee; media committee; and religious/legal committee.
7. Between 1989 and 2001, al Qaida established training camps, guest houses, and business operations in Afghanistan, Pakistan, and other countries for the purpose of training and supporting violent attacks against property and nationals (both military and civilian) of the United States and other countries.

8. In August 1996, Usama bin Laden issued a public "*Declaration of Jihad Against the Americans*," in which he called for the murder of U.S. Military personnel serving on the Arabian peninsula.
9. In February 1998, Usama bin Laden, Ayman al Zawahiri, and others under the banner of "International Islamic Front for Fighting Jews and Crusaders," issued a *fatwa* (purported religious ruling) requiring all Muslims able to do so to kill Americans – whether civilian or military – anywhere they can be found and to "plunder their money."
10. On or about May 29, 1998, Usama bin Laden issued a statement entitled "The Nuclear Bomb of Islam," under the banner of the "International Islamic Front for Fighting Jews and Crusaders," in which he stated that "it is the duty of the Muslims to prepare as much force as possible to terrorize the enemies of God."
11. Since 1989 members and associates of al Qaida, known and unknown, have carried out numerous terrorist attacks, including, but not limited to: the attack against the American Embassies in Kenya and Tanzania in August 1998; the attack against the *USS COLE* in October 2000; and the attacks on the United States on September 11, 2001.

CHARGE 1: CONSPIRACY

12. Abdul Zahir (a/k/a Abdul Bari), in Afghanistan and other countries, from on or about 1997 to on or about July 2002, willfully and knowingly joined an enterprise of persons who shared a common criminal purpose and conspired and agreed with Usama bin Laden, Sheikh Sayeed al Masri, Abdul Hadi al Iraqi (a/k/a Qutaiba), Mohammad Dawood, Abdul Wakil al Somali, Abdul Rauf, Mohammad Agha, Mohammad Rahim, Abdul Kabir (a/k/a Qari Bilal, a/k/a Zelee Gul), Abdul Hakim, Abdul Malik, Abdul Kayum and Saeed Ahmad Agha, and other members and associates of the al Qaida organization, known and unknown, to commit the following offenses triable by military commission: attacking civilians; attacking civilian objects; murder by an unprivileged belligerent; destruction of property by an unprivileged belligerent; and terrorism, said conduct being in the context of and associated with armed conflict.
13. In furtherance of this enterprise and conspiracy, Abdul Zahir and other members of al Qaida committed the following overt acts:
 - a. In 1997, Abdul Zahir served as a translator for the Taliban at the General Gada Guest House in Kabul, where he worked for one year. He was paid 1000 to 1500 Pakistani rupees per month for his services. He was later chosen to work as a translator and money courier for Abdul Hadi al Iraqi, a commander and accountant for al Qaida, who ran the Ashara Guest House in Kart-E-Parwan Province in Kabul, Afghanistan.

- b. Abdul Zahir paid salaries to al Qaida members and bought food and supplies for the Ashara guest house. For this service, al Qaida paid Abdul Zahir an additional salary of 4000 Pakistani rupees per month.
- c. Shortly after September 11, 2001, Abdul Hadi al Iraqi told Abdul Zahir and other Arab members of al Qaida to lie to the Afghans regarding al Qaida's responsibility for the September 11, 2001 attacks.
- d. In early 2002, Abdul Zahir traveled from Lowgar, Afghanistan to Peshawar, Pakistan and joined Abdul Hadi al Iraqi and others to plan explosives attacks against U.S. forces and civilian foreigners in the Zormat and Paktia provinces in Afghanistan. Abdul Zahir remained with this terrorist cell until his capture in July 2002.
- e. For approximately 60,000 Pakistani rupees, Abdul Zahir purchased a photocopy machine to mass produce anti-American leaflets. These leaflets were designed to recruit anti-American Afghans living near the U.S. Embassy in Kabul, Afghanistan and the U.S. military bases in Bagram and Gardez, Afghanistan to plan and conduct operations against U.S. soldiers, and to spread anti-American propaganda.
- f. Al Qaida entrusted Abdul Zahir with \$50,000.00 and directed he use this money to fund terrorist acts against coalition forces. In support of terrorist operations, on at least six separate occasions, Abdul Zahir paid money to other members of the terrorist cell. Furthermore, he maintained an accounting ledger book detailing money transactions in support of terrorist operations.
- g. Al Qaida provided Abdul Zahir a satellite telephone and a list of terrorist cell members' aliases and their corresponding real names. To avoid detection by coalition forces, terrorist cell members including Abdul Zahir used aliases during their communications. Abdul Zahir used the phone and aliases to communicate with members of the terrorist cell, informing them of upcoming missions, logistics, and business transactions.
- h. On or about March 4, 2002, Abdul Zahir, Abdul Kabir and Abdul Hakim conducted a terrorist operation in Zormat, Afghanistan, targeting a passing vehicle carrying civilian foreigners traveling north towards Gardez, Afghanistan. They threw a grenade through the window of this vehicle, injuring the three journalists inside.
- i. In July 2002, at the time of his capture in Lowgar, Afghanistan, Abdul Zahir possessed approximately \$10,000.00 USD, a photocopy machine and an accounting ledger.

CHARGE 2: AIDING THE ENEMY

14. Abdul Zahir (a/k/a Abdul Bari), in Afghanistan from in or about 1997 to July 2002, intentionally aided the enemy, to wit: al Qaida and the Taliban, such conduct taking place in the context of and associated with armed conflict.

CHARGE 3: ATTACKING CIVILIANS

15. Abdul Zahir (a/k/a Abdul Bari), in Afghanistan on or about March 4, 2002, as a perpetrator, co-conspirator, member of an enterprise of persons who shared a common criminal purpose, an aider or abettor, or some combination thereof, attacked civilians traveling north towards Gardez, Afghanistan in a passing vehicle, such conduct taking place in the context of and associated with armed conflict.